

Agency Budget Comparison

The following table summarizes the total legislative budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	192.50	192.50	200.50	200.50	192.50	200.50	8.00	4.16%
Personal Services	11,077,564	11,663,426	11,737,899	11,847,905	22,740,990	23,585,804	844,814	3.71%
Operating Expenses	8,068,574	7,928,489	8,161,223	8,040,780	15,997,063	16,202,003	204,940	1.28%
Equipment & Intangible Assets	123,370	60,653	123,370	123,370	184,023	246,740	62,717	34.08%
Total Costs	\$19,269,508	\$19,652,568	\$20,022,492	\$20,012,055	\$38,922,076	\$40,034,547	\$1,112,471	2.86%
General Fund	19,226,052	19,577,568	19,979,036	19,968,599	38,803,620	39,947,635	1,144,015	2.95%
State Special	43,456	75,000	43,456	43,456	118,456	86,912	(31,544)	(26.63%)
Total Funds	\$19,269,508	\$19,652,568	\$20,022,492	\$20,012,055	\$38,922,076	\$40,034,547	\$1,112,471	2.86%

Agency Description

Mission Statement - The mission of the Office of the State Public Defender is to ensure equal access to justice for the state's indigent. The statewide public defender system, created by passage of the Montana Public Defender Act contained in Title 47, Montana Code Annotated, required the new system to be operational by July 1, 2006. The Public Defender Commission is responsible for the design, direction, and supervision of the new system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, approves statewide standards for qualifications and training of public defenders and approves the overall design of the new statewide system.

The Office of State Public Defender administers the statewide public defender system and delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be indigent per statutory provisions and is accused of an offense that could result in the person's loss of life or liberty if convicted. The statewide public defender system is supervised by the Public Defender Commission, an eleven member commission appointed by the Governor. The office is administratively attached to the Department of Administration with the exception of some functions as provided in statute (2-15-1028, MCA). The statewide public defender system also includes appellate defender functions that were previously the responsibility of a separate state agency.

Agency Highlights

Office of Public Defender HB 2 Budget Highlights	
◆	General fund support for the agency increases 2.9 percent (\$1.1 million) when the 2009 and 2011 biennia are compared
◆	Funding increases are due to statewide present law adjustments and requests for increases due to caseload growth that are offset by an unspecified general fund reduction of 2 percent
◆	Removal of a one-time-only appropriation for caseload transition reduces the adjusted base budget by about \$500,000 when compared to total FY 2008 expenditures
◆	The legislature included provisions requiring the agency to report specific caseload and collection data in HB 676
◆	The legislature recommended that during the interim the Legislative Finance Committee monitor: <ul style="list-style-type: none"> • Provision of caseload and collection data as required in HB 676 • Completion of employee performance appraisals and contractor proficiency reviews

HB 645 Budget Highlights

- ◆ HB 645 has no impact on this agency

Summary of Legislative Action

The legislature provided funding for the agency that is \$1.1 million (or 2.9 percent) greater in the 2011 biennium than the 2009 biennium. Increases in funding for increased caseload (\$1.6 million for the biennium) is offset by an unspecified reduction in general fund support of 2 percent (\$0.8 million) and an increase in the applied vacancy savings rate from 4 percent to 7 percent (\$0.7 million). Additionally, the 2009 biennium funding level does not include a one-time-only appropriation for the costs of transitioning caseload to the new system.

Agency Discussion

Recommendations to the LFC

The legislature recommended that the Legislative Finance Committee monitor the following in the 2011 biennium.

- o Caseload and collection data reporting as specified in HB 676
- o Completion of employee performance appraisals and contractor proficiency examinations during the interim
- o Vacancy savings, turnover, staffing, and mandatory overtime including vacancy savings rates, staff turnover rates, staffing patterns and caseload, and the amount and cost of mandatory overtime

Funding

The following table summarizes funding for the agency, by source, for the base year as adopted by the legislature. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget				
Agency Program	General Fund	State Spec.	Grand Total	Total %
01 Office Of Public Defender	\$ 38,185,837	\$ 86,912	\$ 38,272,749	95.60%
02 Office Of Appellate Defender	1,761,798	-	1,761,798	4.40%
Grand Total	<u>\$ 39,947,635</u>	<u>\$ 86,912</u>	<u>\$ 40,034,547</u>	<u>100.00%</u>

The agency is funded almost exclusively by the general fund. A small amount of state special revenue (less than one-quarter percent of the agency's funding) from court ordered payments also supports the program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	19,226,052	19,226,052	38,452,104	96.26%	19,269,508	19,269,508	38,539,016	96.26%
Statewide PL Adjustments	526,502	382,022	908,524	2.27%	526,502	382,022	908,524	2.27%
Other PL Adjustments	811,975	807,027	1,619,002	4.05%	811,975	807,027	1,619,002	4.04%
New Proposals	(585,493)	(446,502)	(1,031,995)	(2.58%)	(585,493)	(446,502)	(1,031,995)	(2.58%)
Total Budget	\$19,979,036	\$19,968,599	\$39,947,635		\$20,022,492	\$20,012,055	\$40,034,547	

Executive Budget Comparison

The following table compares the legislative budget in the 2011 biennium to the budget requested by the Governor, by type of expenditure and source of funding.

Executive Budget Comparison								
Budget Item	Base Budget Fiscal 2008	Executive Budget Fiscal 2010	Legislative Budget Fiscal 2010	Leg – Exec. Difference Fiscal 2010	Executive Budget Fiscal 2011	Legislative Budget Fiscal 2011	Leg – Exec. Difference Fiscal 2011	Biennium Difference Fiscal 10-11
FTE	192.50	200.50	200.50	0.00	200.50	200.50	0.00	
Personal Services	11,077,564	12,127,469	11,737,899	(389,570)	12,140,359	11,847,905	(292,454)	(682,024)
Operating Expenses	8,068,574	8,565,942	8,161,223	(404,719)	8,557,126	8,040,780	(516,346)	(921,065)
Equipment & Intangible Assets	123,370	123,370	123,370	0	123,370	123,370	0	0
Total Costs	\$19,269,508	\$20,816,781	\$20,022,492	(\$794,289)	\$20,820,855	\$20,012,055	(\$808,800)	(\$1,603,089)
General Fund	19,226,052	20,773,325	19,979,036	(794,289)	20,777,399	19,968,599	(808,800)	(1,603,089)
State/Other Special	43,456	43,456	43,456	0	43,456	43,456	0	0
Total Funds	\$19,269,508	\$20,816,781	\$20,022,492	(\$794,289)	\$20,820,855	\$20,012,055	(\$808,800)	(\$1,603,089)

The level of funding provided by the legislature is \$334,070 lower than the executive request, which is the net impact of an unspecified 2 percent reduction in general fund support, provision of funding for the 2011 biennium pay plan, and funding to relocate the Lewis and Clark County Office because the space is needed to support the addition of a district court judge.

Other Legislation

HB 676 includes requirements for the agency to report specific information related to caseload and collection of reimbursement for services provided. HB 676 specifies:

“The office of public defender is required to report data for each fiscal year representing the caseload for the entire public defender system including data for both employee and contract attorneys, the number of new cases opened, the number of cases closed, the number of cases that remain open and active, the number of cases that remain open but are inactive, and the average number of days between case opening and closure for each case type. The report for fiscal year 2009 must be provided to the legislative finance committee by January 1, 2010 and the report for fiscal year 2010 must be provided to the legislative finance committee by September 30, 2010.

The office of public defender is required to report for each fiscal year on the amount of funds collected as reimbursement for services rendered including the number of cases for which a collection is made, the number of cases for which an amount is owed, the amount collected, and the amount remaining unpaid. The report for fiscal year 2009 must be provided to the legislative finance committee by January 1, 2010 and the report for fiscal year 2010 must be provided to the legislative finance committee by September 30, 2010.”

SB 158 authorizes the addition of three additional district court judges, including a judge in Judicial District 1 (Lewis and Clark and Broadwater Counties). The addition of a judge in Judicial District 1 will require that the Lewis and Clark county office of the state public defender be relocated. The legislature provided \$66,599 general fund as a restricted, one-time-only appropriation for this purpose.

Senate Bill 197 specifies the rate of compensation for court transcripts and provides for an annual cost-of-living adjustment to this rate.

Senate Bill 263 specifies that the court shall require a convicted defendant to pay the costs of counsel assigned to represent the defendant and establishes a rate of \$150 for every misdemeanor case and \$500 in every felony case. Additional SB 263 specifies that if the criminal proceeding includes a jury trial counsel assigned by the OPD shall file with the court a statement of hours spent on the case and the costs and expenses incurred and that the court shall require the defendant to pay the costs reflected in the statement. However, the court may not sentence a defendant to pay the costs for assigned counsel unless the defendant is or will be able to pay them. In addition to provisions regarding reimbursement of costs, this bill specifies that the propriety of an assignment of counsel by the OPD is subject to inquiry by the court, and that the court may deny an assignment.

House Bill 3 provides a supplemental appropriation of \$292,000 general fund for the Appellate Defender Program within the Office of Public Defender. The agency's request for a supplemental appropriation is attributed to the addition of 1.00 FTE as a modified position and operating costs for additional contract attorney services and transcript expenditures. The agency indicates that the number of post conviction relief and appeal cases have increased over prior years and that the transcripts necessary for the appeal process can be very costly.

Note: The complete report is available at

http://leg.mt.gov/content/Publications/fiscal/fr_2011/fr_d/public_defender.pdf